

NIST, Commerce

to any action taken with respect thereto.

§ 501.3 Definitions.

(a) The term *Secretary*, as used in this part, means the Director of the National Institute of Standards and Technology.

(b) The term *Government agency*, as used in this part, means any Executive department or independent establishment of the Executive branch of the Government (including any independent regulatory commission or board, any corporation wholly owned by the United States, and the Smithsonian Institution), but does not include the Department of Energy for inventions made under the provisions of 42 U.S.C. 2182, the Tennessee Valley Authority, or the Postal Service.

(c) The term *Government employee*, as used in this part, means any officer or employee, civilian or military, of any Government agency, including any special Government employee as defined in 18 U.S.C. 202 or an individual working for a Federal agency pursuant to the Intergovernmental Personnel Act (IPA), 5 U.S.C. 1304 and 3371–3376, or a part-time consultant or part-time employee as defined in 29 U.S.C. 2101(a)(8) except as may otherwise be provided by agency regulation approved by the Secretary.

(d) The term *invention*, as used in this part, means any art or process, machine, manufacture, design, or composition of matter, or any new and useful improvement thereof, or any variety of plant, which is or may be patentable under the patent laws of the United States.

(e) The term *made* as used in this part in relation to any invention, means the conception or first actual reduction to practice of such invention as stated in *In re King*, 3 USPQ2d (BNA) 1747 (Comm'r Pat. 1987).

[61 FR 40999, Aug. 7, 1996, as amended at 78 FR 4766, Jan. 23, 2013]

§ 501.4 Determination of inventions and rights.

Each Government agency has the approval of the Secretary to determine whether the results of research, development, or other activity in the agency constitute an invention within the pur-

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view of Executive Order 10096, as amended by Executive Order 10930 and Executive Order 10695, and to determine the rights in and to the invention in accordance with the provisions of §§ 501.6 and 501.7.

[61 FR 40999, Aug. 7, 1996]

§ 501.5 Agency liaison officer.

Each Government agency shall designate a liaison officer to represent the agency before the Secretary; Provided, however, that the Departments of the Army, the Navy, and the Air Force may each designate a liaison officer.

§ 501.6 Criteria for the determination of rights in and to inventions.

(a) The following rules shall be applied in determining the respective rights of the Government and of the inventor in and to any invention that is subject to the provisions of this part:

(1) The Government shall obtain, except as herein otherwise provided, the entire right, title and interest in and to any invention made by any Government employee:

(i) During working hours, or

(ii) With a contribution by the Government of facilities, equipment, materials, funds or information, or of time or services of other Government employees on official duty, or

(iii) Which bears a direct relation to or is made in consequence of the official duties of the inventor.

(2) In any case where the contribution of the Government, as measured by any one or more of the criteria set forth in paragraph (a)(1) of this section, to the invention is insufficient equitably to justify a requirement of assignment to the Government of the entire right, title and interest in and to such invention, or in any case where the Government has insufficient interest in an invention to obtain the entire right, title and interest therein (although the Government could obtain same under paragraph (a)(1) of this section), the Government agency concerned shall leave title to such invention in the employee, subject however, to the reservation to the Government of a nonexclusive, irrevocable, royalty-free license in the invention with power to grant licenses for all governmental purposes. The terms of such